

— CA 495-00
VAR

Lawson, Peter
00-2672

MSA-S-1829-974

LC letter
9/28/00
Comments
10/1/05 KES

h

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

October 4, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3227

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer and cliff setback requirements in order to construct an addition to the primary dwelling. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant is applying for a revision to a variance originally approved in October of 2000. The original variance request proposed to construct a garage on the southern portion of the applicant's property, approximately 90 feet from Mean High Water (MHW). It does not appear that the proposed garage structure has been constructed to date. The applicant is currently proposing to construct a 228 square foot sunroom approximately 40 feet from the edge of the cliff. While this office does ^{not} generally oppose a request to construct a sunroom in place of the proposed garage, there is concern regarding the location of new impervious surface area 40 feet from the cliff face and significantly closer to MHW than the originally proposed garage. Specifically, it is my understanding that while the toe of the cliff has been stabilized with revetment, there is active erosion occurring at the top of cliff.

In consideration of the sensitivity of an actively eroding cliff face, particularly where an increase in impervious surface area is proposed, and with regard to the potential location of the proposed addition within the Buffer, we recommend that the addition be located no further towards MHW than the existing impervious footprint. As the previously approved garage structure was to be constructed to the south of the existing dwelling, and no closer to MHW than the existing impervious footprint, it appears that the proposed addition could also be constructed in this manner. In addition to revising the location of the proposed addition, we recommend that the applicant be required to provide some form of stormwater management to prevent the increased runoff from the new impervious surface area from being directed towards the cliff face.

Roxana Whitt
Variance 05-3227
October 4, 2005
Page 2

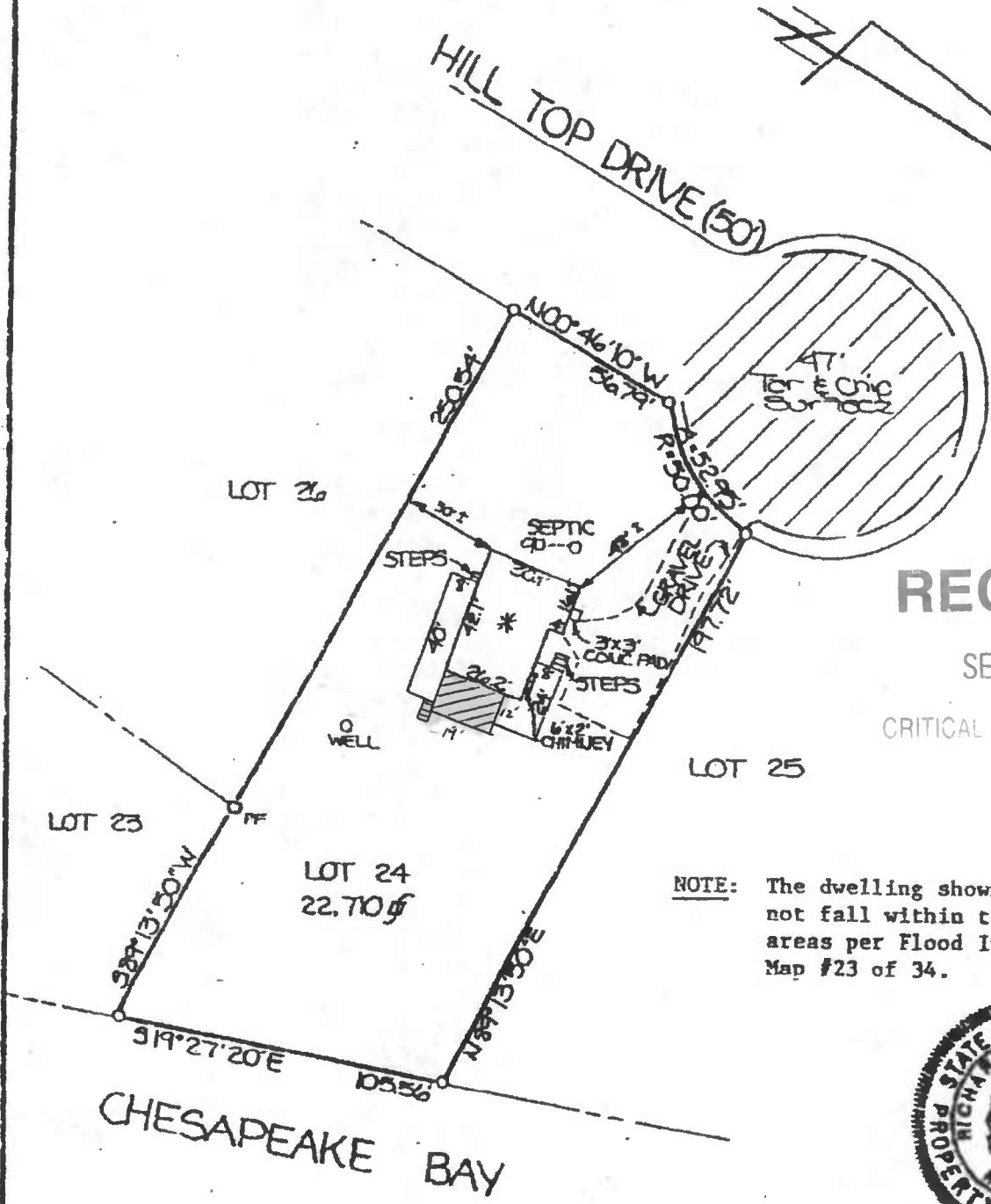
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kerrie Gallo".

Kerrie L. Gallo
Natural Resources Planner
CA 495-00

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NOTE: The dwelling shown hereon does not fall within the flood plain areas per Flood Insurance Rate Map #23 of 34.



This is to certify that to the best of my knowledge and belief the improvements indicated hereon are located as shown. This is not a property line survey.
Richard W. Collier
 Registered Surveyor

* ONE AND ONE HALF STORY WOOD FRAME HOUSE

IMPROVEMENT LOCATION SURVEY
LOT 24 BLOCK 6
WESTERN SHORES ESTATES
1 ST DISTRICT, CALVERT COUNTY, MD
FOR: WILLIAM WILSON & ASSOCIATES

MC CRONE
 Engineers • Planners
 Surveyors
 Annapolis, Maryland
 Centreville - Chestertown - Denton - Easton
 Elkton - Leonardtown - Prince Frederick

DRAWN BY J. BAILEY
 SCALE 1"=50'
 DATE 12-8-86
 JOB NO. 303410789
 FOLDER WESTERN SHORES ESTATES

05-3227

CALVERT COUNTY
BOARD OF APPEALS

150 Main St.
Prince Frederick, MD 20678
410-535-2348 • 301-855-1243
TDD 800-735-2258

(P&Z USE ONLY)	
FEES: PER FEE SCHEDULE	
Date Filed:	8/11/05
Fees Paid:	150.00
Receipt No.:	7034
Rec'd By:	C. Penfield
Case No.:	05-3227

APPLICATION FOR APPEAL

PROPERTY DESCRIPTION:

Tax Map No. Parcel _____ Lot 24 Block 6

Tax ID No. Residential

Property Address 3522 Hill Top Drive, Port Republic 20676

Has subject property ever been before the Board of Appeals? ☒ (yes) _____ (no)

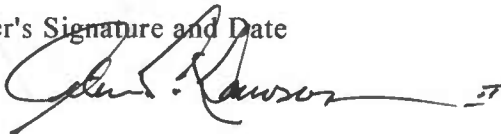
If yes, give Case No. and date: Case Number 00-2672; 12 October 2000 (Attached)

DIRECTIONS FROM COURTHOUSE TO SITE: Proceed South Route 2/4, turn left onto Western Shores Blvd., Crossover Rt 765, continue on Western Shores Blvd., turn left onto Pine Tree, turn right onto Hill Top Drive, go to end of cul-de-sac, number 3522.

Approximately 7 miles from the Court House.

PROPERTY OWNER(S): PETER G. LAWSON, II
3522 HILL TOP DRIVE
PORT REPUBLIC, MD 20676-2322
Home: 410-586-0115
Work: 703-725-7675 (Cell)

Owner's Signature and Date



8/11/05

Applicant's Signature:



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PURPOSE OF APPEAL

REQUEST IS FOR: (check all items that apply)

- ☐ Variance ☐ Multiple Variances
- ☒ Revision to a Previously Approved Variance
- ☐ Special Exception
- ☐ To Extend Time Limit on a Special Exception
- ☐ Revision/Modification of a Special Exception
- ☐ Expansion of a Non-Conforming Use
- ☐ Reconsideration of Previous Decision by Board
- ☐ Re-Schedule a Case Previously Postponed
- ☐ Decision on an Alleged Error made by

Describe in specific detail the reason each item is requested. Building Restriction Line (BRL) variances must state which BRL is at issue (i.e., front/side/rear) and indicate distances required and proposed (Example: A variance in the front setback from 60 feet to 25 feet for construction of a garage). Impervious surface variances must state existing % impervious surface and % requested. Waterfront buffer variances must state the distance to the waterfront of the proposed structure.

This property consists of .52 acre and is currently improved with a single family dwelling with a gravel driveway. The house is situated on a cliff overlooking the Chesapeake Bay. The toe of the cliff has been stabilized with a stone revetment. Drainage is towards Hill Top Drive and away from the cliff. The topography of the property is level. The entire lot lies within the cliff setback.

I am asking that an existing variance, approved under Case Number 00-2672 of 12 October 2000, be applied here, as well. The garage requested under the previous variance was never constructed. Construction will be for a "Sun Room" over existing plank decking. The room will extend 4 feet beyond the current edge of an existing 8 foot wide deck. The room will extend across the front of the house 19 ft. Area under the room will remain open. Impacts to the Critical Area will be minimal as the only disturbance to the area will be the footers for the new room. No trees will be affected. Distance from cliff to room face, when completed, will be 40 ft.

NOTE: Nine copies of the plat must be filed with the application. Additionally, one plat which exhibits a Health Department Approval Stamp must be provided to the Clerk to the Board no later than at the hearing for the case. Drawings must be to scale and clearly show all dimensions of existing and requested structures and improvements, and distances to property lines and waterways. Topography on 2-foot contours is required for all new houses and replacement dwellings, and may be required for substantial additions and/or in areas with steep slopes. Field-run topography is required for new homes on all lots less than 20,000 s.f.

NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE MAY BE RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING FOR PUBLIC HEARING.

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CRITICAL AREA COMMISSION

AFFECTED PROPERTY OWNERS LIST

YOU MUST LIST THE NAMES AND ADDRESS OF ALL ADJOINING PROPERTY OWNERS AND THOSE PROPERTY OWNERS DIRECTLY ACROSS ALL ADJACENT STREETS AND/OR RIGHTS OF WAY

Name: Conzalo Tornell
Address: 3536 Hill Top Drive (Property to the South)

Name: Kay M. Brown
Address: 3508 Hill Top Drive (Property to the North)

Name: Douglas Butts
Address: 3523 Hill Top Drive (Proeprty Across the Street)

There are no other property owners involved.

There are no private roads or rights of way involved.

**BOARD OF APPEALS
CRITICAL AREA FORM**

**THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED FOR ALL
CRITICAL AREA VARIANCE CASES:**

PROPERTY LOCATION AND INFORMATION:

Tax Map # _____ Parcel _____ Lot 24 Block 6 Section _____

Property Address: 3522 Hill Top Drive, Port Republic, 20676

Zoning: Residential. Property is designated LDA

----- Critical Area Designation -----

Total Acreage of Property .52 Tax ID: 01 - 164341

22651 2

PROJECT INFORMATION:

Type of construction proposed Construction of 12 x 19 Sun Room on Bay Side on existing house.

Total square footage of the proposed construction 228 square ft.

Total square footage of existing impervious surface 1167.8 square ft. - 1395.8 total = 6.22

Total square footage of proposed impervious surface 0 square ft.

Total square footage of existing tree cover 600 square ft.

Total square footage of disturbed area and/or tree cover to be removed 0 square ft.

Is the proposed construction site within the waterfront buffer? Yes

Is the proposed construction site on slopes greater than 15%? No

ALL PLANS MUST CONTAIN THE FOLLOWING INFORMATION:

Location and dimensions of the proposed construction.

Location and dimensions of all existing improvements on the property.

Location and dimensions of driveways, parking areas and accessory structures.

Distances from proposed construction to all property lines and waterways/wetlands.

Location of the approved well and the septic system drainfields. Location of the tree canopy line and limit of clearing.

Waterfront and/or wetland buffers.

****For all new and replacement dwellings and for substantial additions, fully engineered plans are required showing 2-foot contours, grading, and proposed sediment and erosion**

control measures.

**NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE MAY BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING FOR
PUBLIC HEARING.**

Mr. Peter Lawson, II, has applied to the Board of Appeals for a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 2-car garage. The subject property is known as Lot 24, is located in Western Shores Estates adjacent to the Chesapeake Bay, and is zoned R-1 Residential.

The matter was presented October 12, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. Peter Lawson, II was present at the hearing. The plat which was submitted with the application was marked Applicants' Exhibit No. 1, dated, and entered into the record. A staff report and photographs taken on-site were also entered into the record.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property consists of .32 acre and is currently improved with a single-family dwelling with a gravel driveway. The house is situated on a cliff overlooking the Chesapeake Bay. The toe of the cliff slope has been stabilized with a stone revetment. Drainage is toward Hilltop Drive, away from the cliff.
2. The topography of the property is level. The entire lot lies within the cliff setback.
3. The Applicant is requesting a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 20' x 24' two-car garage.
4. The garage will be built within the border of the existing gravel driveway. The only disturbance to the area will be the footers for the garage.
5. The garage will be built within the Building Restriction Lines. There will be no living area associated with the garage.
6. Any runoff from the garage will be directed away from the cliff.

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7. Comments dated September 28, 2000 were received from the Chesapeake Bay Critical Area Commission indicating no objection to the Applicants' request provided that impacts to the Buffer are minimized during construction.
8. Comments dated October 3, 2000 were received from the Engineering Bureau indicating downspouts must outfall onto a riprap pad; grading for the proposed garage shall be shown on the plan; and any existing structures on lot 25, and how the proposed grading will effect these structures, shall be shown on the plan.
9. Comments dated September 25, 2000 were received from the Calvert Soil Conservation District indicating they had no comment as there is no Erosion and Sediment Control Plan to review. Comments also indicated that an Erosion and Sediment Control Plan must be submitted to their office before a grading permit can be issued.
10. There was no one present at the hearing who objected to the Applicant's request.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions

(in accordance with Section 7-3.01 of the Calvert County Zoning Ordinance):

1. Strict application of the 100' waterfront buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property as the proposed garage will be built over an existing gravel driveway. Impacts to the Critical Area will be minimal as the only disturbance to the area will be the footers for the garage.

Strict application of the cliff setback requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property because the entire lot lies within the cliff setbacks.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as impacts to the waterfront buffer and cliff setbacks are minimal. In addition, there was no one present at the hearing who objected to the Applicant's request.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement

of provisions within the County's Critical Area Program would result in unwarranted hardship.

4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of a variance will not confer upon the applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the 100' waterfront buffer requirements and the variance in the cliff setback requirements as requested by Mr. Peter Lawson, II, be granted based on the above findings of fact and conclusions, subject to the following conditions:

1. Any downspouts that are part of the construction shall discharge onto riprap pads.
2. Grading shall be shown on the building permit plan.
3. There shall be a sediment control plan included with the building permit application as required by Soil Conservation Services.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: November 2, 2000
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

September 28, 2000

Ms. Roxana Whitt
Calvert County Planning & Zoning
150 Main Street
Prince Frederick, MD 20678

RE: Variance Case No. 00-2672, Lawson

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance request. The applicants are requesting a variance to construct a 2-car garage within the Buffer and cliff setback. The property is designated LDA and is developed with a single family dwelling and gravel driveway.

Ideally, the proposed garage should be placed as close to the road as possible to reduce impacts to the Buffer. However, it appears that the garage will be placed over the existing gravel driveway and that the only new disturbance will be the footers for the garage. Provided that impacts are minimized during construction, this office does not oppose the variance requested. If possible, stormwater from the new garage should be directed away from the cliff.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: CA495-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 CALVERT STREET, 2ND FLOOR
ANNAPOLIS, MD 21401

CA495-00

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Calvert Date: 9/15/00

Name of Project (site name, subdivision name, or other): LARSON

Local case number: 00-2672

Project location/Address: Port Republic, MD
10.# 01-164341

Tax map# _____ Block# _____ Lot# _____ Parcel# _____

Type of application:
(Select all applicable)

- ☐ SUBDIVISION
- ☐ SITE PLAN
- ☒ VARIANCE:
Buffer _____ Slope _____
Imp.Surf. _____ Other _____
- ☐ SPECIAL EXCEPTION
- ☐ CONDITIONAL USE
- ☐ REZONING
- ☐ GRADING PERMIT
- ☐ BLDG PERMIT
- ☐ INTRAFAMILY
- ☐ GROWTH ALLOCATION
- ☐ OTHERS _____

Type of Project:
(Select all applicable)

- ☒ RESIDENTIAL
- ☐ COMMERCIAL
- ☐ WATER DEPENDENT
FACILITY/PIER/MARINA
- ☐ INDUSTRIAL
- ☐ MIXED USE
- ☐ REDEVELOPMENT
- ☐ SHORE EROSION PROTEC.
- ☐ AGRICULTURE
- ☐ OTHERS _____
e.g. PUD

Current Use:
(Select all applicable)

- ☐ COMMERCIAL
- ☒ RESIDENTIAL
- ☐ AGRICULTURE
- ☐ FOREST/BUFFER/WOODLAND
- ☐ INDUSTRIAL
- ☐ INSTITUTIONAL
- ☐ OPEN SPACE/RECRE.
- ☐ SURFACE MINING
- ☐ VACANT
- ☐ WATER DEPENDENT
FACILITY/PIER/MARINA
- ☐ OTHERS _____

Describe Proposed use of project site: _____

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 1.52 ACRES

IDA ACRES _____

LDA ACRES ✓

RCA ACRES _____

AGRICULTURAL LAND: _____

AREA DISTURBED: _____

LOTS CREATED: _____

DWELLING UNITS: _____

EXISTING FOREST/WOODLAND/TREES: _____ FOREST/WOODLAND/TREES REMOVED: _____

FOREST/WOODLAND/TREES CREATED: _____

EXISTING IMPERVIOUS SURFACE: _____

PROPOSED IMPERVIOUS SURFACE: _____

TOTAL IMPERVIOUS SURFACE: _____

GROWTH ALLOCATION DEDUCTED: _____

RCA to LDA: _____

RCA to IDA: _____

LDA to IDA: _____

Local Jurisdiction Contact person: Roxana L. Whitt

Telephone number: 410-535-1600 Ext. 335

Response from Commission required by: 10/3/00

Hearing Date: 10/12/00

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

PETER G. LAWSON, #
3522 HILL TOP DRIVE
PORT REPUBLIC, MD 20676-2322
410-586-0115

LISTED DISTANCES ACCURATE.
DRAWING NOT TO SCALE FOR
GARAGE.

HILL TOP DRIVE (50')

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

DISTANCE TO STREET
52' 7"

GARAGE 20' X 24' CRITICAL AREA
NO PLUMBING

LOT 25
DISTANCE FROM PROPERTY LINE 6' 0"

NOTE: The dwelling shown hereon does
not fall within the flood plain
areas per Flood Insurance Rate
Map #23 of 34.

APPROVE
20X24 GARAGE
AUG 3 2001
CALVERT COUNTY HEALTH DEPT.



This is to certify that to the best of my knowledge
and belief the improvements indicated hereon are
located as shown. This is not a property line survey.

Richard W. Collinson
Registered Surveyor

IMPERVIOUS: HOUSE
1103 ft² + 64.8 ft²
FOR ATTACHED STORAGE
AREA

LOT 26

LOT 23

LOT 24
22,710 ft²

CHESAPEAKE BAY

HEIGHT OF CLIFF
APPROX. 56 ft

* ONE AND ONE HALF STORY
WOOD FRAME HOUSE

No Plumbing
STONE RETAINMENT EXTENDS
40' FROM CLIFF BASE TO
M.L.W.

IMPROVEMENT LOCATION SURVEY
LOT 24 BLOCK 6
WESTERN SHORES ESTATES
1ST DISTRICT, CALVERT COUNTY, MD
FOR: WILLIAM WILSON & ASSOCIATES

MC CRONE

Engineers • Planners
Surveyors
Annapolis, Maryland
Centreville - Chestertown - Denton - Easton
Elkton - Leonardtown - Prince Frederick

DRAWN BY J. BAILEY
SCALE 1" = 50'
DATE 12-8-86
JOB NO. 303410789
FOLDER WESTERN
SHORES ESTATES

00-2672

Mr. Peter Lawson, II, has applied to the Board of Appeals for a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 2-car garage. The subject property is known as Lot 24, is located in Western Shores Estates adjacent to the Chesapeake Bay, and is zoned R-1 Residential.

The matter was presented October 12, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. Peter Lawson, II was present at the hearing. The plat which was submitted with the application was marked Applicants' Exhibit No. 1, dated, and entered into the record. A staff report and photographs taken on-site were also entered into the record.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property consists of .32 acre and is currently improved with a single-family dwelling with a gravel driveway. The house is situated on a cliff overlooking the Chesapeake Bay. The toe of the cliff slope has been stabilized with a stone revetment. Drainage is toward Hilltop Drive, away from the cliff.
2. The topography of the property is level. The entire lot lies within the cliff setback.
3. The Applicant is requesting a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 20' x 24' two-car garage.
4. The garage will be built within the border of the existing gravel driveway. The only disturbance to the area will be the footers for the garage.
5. The garage will be built within the Building Restriction Lines. There will be no living area associated with the garage.
6. Any runoff from the garage will be directed away from the cliff.

7. Comments dated September 28, 2000 were received from the Chesapeake Bay Critical Area Commission indicating no objection to the Applicants' request provided that impacts to the Buffer are minimized during construction.
8. Comments dated October 3, 2000 were received from the Engineering Bureau indicating downspouts must outfall onto a riprap pad; grading for the proposed garage shall be shown on the plan; and any existing structures on lot 25, and how the proposed grading will effect these structures, shall be shown on the plan.
9. Comments dated September 25, 2000 were received from the Calvert Soil Conservation District indicating they had no comment as there is no Erosion and Sediment Control Plan to review. Comments also indicated that an Erosion and Sediment Control Plan must be submitted to their office before a grading permit can be issued.
10. There was no one present at the hearing who objected to the Applicant's request.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions

(in accordance with Section 7-3.01 of the Calvert County Zoning Ordinance):

1. Strict application of the 100' waterfront buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property as the proposed garage will be built over an existing gravel driveway. Impacts to the Critical Area will be minimal as the only disturbance to the area will be the footers for the garage.

Strict application of the cliff setback requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property because the entire lot lies within the cliff setbacks.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as impacts to the waterfront buffer and cliff setbacks are minimal. In addition, there was no one present at the hearing who objected to the Applicant's request.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement

of provisions within the County's Critical Area Program would result in unwarranted hardship.

4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of a variance will not confer upon the applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the 100' waterfront buffer requirements and the variance in the cliff setback requirements as requested by Mr. Peter Lawson, II, be granted based on the above findings of fact and conclusions, subject to the following conditions:

1. Any downspouts that are part of the construction shall discharge onto riprap pads.
2. Grading shall be shown on the building permit plan.
3. There shall be a sediment control plan included with the building permit application as required by Soil Conservation Services.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: November 2, 2000
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman

Case No. 05-3227

Public Hearing
October 6, 2005

Peter G. Lawson, II has applied for a revision to previously approved variances (Case No. 00-2672 – a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 2-car garage) for construction of a sunroom. The property is located at 3522 Hill Top Drive, Port Republic (Lot 24, Block 6, Western Shores) and is zoned R-1 Residential.

The matter was presented October 6, 2005 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. Walter Boynton, Vice Chairman, and Mr. Dan Baker. Mr. Peter Lawson was present at the hearing. The plat submitted with the application was marked Applicant's Exhibit No. 1, dated and entered into the record at the hearing. A Staff Report and photographs taken on site were also entered into the record at the hearing.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains .52 acre and zoned R-1 Residential.
2. The property is currently developed with a house that is situated on a cliff overlooking the Bay, with the closest construction about 30 feet from the cliff edge. The measurement is somewhat tenuous however, since the top of the cliff has been seriously undercut by erosion below. The toe of the cliff has been stabilized, but the face of the cliff shows signs of significant erosion.
3. The Applicant is requesting a revision to previously approved variances (Case No. 00-2672 – a variance in the 100' waterfront buffer requirements and a variance in the cliff setback requirements to construct a 2-car garage) for construction of a sunroom.

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OCT 27 2005

CRITICAL AREA COMMISSION

4. The Applicant indicated at the October hearing that: (1) the garage approved under Board of Appeals Case No. 00-2672 for the subject property was never constructed; (2) he would now like to construct a 12' x 19' three season Florida sunroom on this property, which will be in a different location than the previously approved garage; (3) the room would go between two outside vertical beams which are already in place; (4) the room would extend 4' beyond an existing pad located on site; (5) he has no plans to construct the approved garage at this time; (6) roof drainage from the sunroom would be directed back toward the rock driveway; (7) the neighbors have not verbally objected to the proposed construction; and (8) if he determined he wished to construct the previously approved garage he would return to the Board to request variance approval for that project.
5. Staff comments received at the October hearing indicated: (1) the applicant received Board of Appeals approval for construction of a garage within the waterfront buffer and cliff setback in 2000; (2) the garage has not been constructed; (3) the original variance allowed construction at a distance from the cliff essentially equal to that of the house; (4) the proposed construction extends toward the cliff; (5) an existing deck would serve as the foundation for the proposed sunroom; and (6) the requested construction would extend another 4' beyond that deck frame toward the Bay.
6. The lot is property grandfathered for variance consideration.
7. The Board determined there has been stabilization of the shoreline, drainage is away from the cliff, and the increase in impervious surfaces will be minimal.
8. Neighboring property owners have been notified of the proposed construction and have not opposed the Applicants' request either orally or in writing.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 11-1.01.A and Section 11-1.01.B of the Calvert County Zoning Ordinance):

1. The Applicant demonstrated through exhibits and testimony that without a revision in the variances previously granted by the Board (Case No. 00-

2672 for a variance in the waterfront buffer requirements and a variance in the cliff setback requirements) for construction of a 12' x 19' sunroom unusual practical difficulties or undue hardship would be imposed on the Applicant due to the location of the existing house, septic system, well, and driveway which limit the space available on the property for the proposed construction.

2. Granting the revision to the previously approved variances would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan, as neighboring property owners have been notified of the proposed construction and have not objected either orally or in writing. The variance is the minimum required and the Board found there is no other suitable location for the proposed structure.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land or structure and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship. The Board determined that the construction of a sunroom on a Bay front property is not an uncommon request.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of the revision to the previously approved variances will not confer upon the Applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area. This approval is lot specific. The Board determined there has been stabilization of the shoreline, drainage is away from the cliff, and the increase in impervious surfaces will be minimal.
6. The revision to the previously approved variance requests are not based upon conditions or circumstances, which are the result of actions, by the Applicant nor do the requests arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of the revision to the previously approved variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.

8. The application for a revision to previously approved variances was made in writing to the Board of Appeals with a copy provided to the Critical Area Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the revision to the previously approved variances under Case No. 00-2670 for construction of a 12' x 19' sunroom, as requested by Peter Lawson be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:

1. The original variances for construction of a garage on the north side of the house are hereby nullified.
2. Drainage from the sunroom roof shall be directed away from the roof face and the Bay.
3. Footings for this project shall be hand dug. No heavy equipment shall be allowed on site for the subject construction.
4. The Applicant shall sign a Waiver of Liability, in the format provided by the Department of Planning and Zoning, exempting the County from any liability for damage or injury resulting from construction on the subject property. The waiver shall be submitted to the Department of Planning and Zoning for approval prior to submittal for the building permit application. The Waiver of Liability shall be recorded in the Land Records for Calvert County with a copy placed in the Board of Appeals files.

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: October 26 2005
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman